THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.3421 of 1999

DATED:14.03.2006

Between:

P. Sarojini ..Petitioner

And

Srikalahasthi Municipality, represented by its Commissioner, Srikalahasthi, Chittoor District. ..Respondent

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WRIT PETITION No.3421 of 1999

ORDER:

The petitioner is the resident of Srikalahasthi. She is allegedly the owner of land admeasuring 2025 square feet comprised in survey No.259 of Srikalahasthi. It is her case that she constructed first and second floors of residential house after obtaining necessary permission from the respondent-Municipality and also constructed a stair case room on the second floor. When she approached the respondent for requisition of the construction above the second floor, the same was rejected by the impugned endorsement, dated 07-12-1998. Aggrieved by the same, the present writ petition is filed.

It is the case of the petitioner that she is the absolute title holder, having purchased the property from C. Audilakshmamma under a registered sale deed, dated 07-06-1978. She further contends that Srikalahasteeswara Swamy Devasthanam filed a suit, being O.S.No.202 of 1990 on the file of the Court of the Principal District Munsif, Srikalahasthi, against the petitioner and her husband for declaration of title, but the same was dismissed. Aggrieved by the same, the Devasthanam preferred an appeal, being A.S.No.21 of 1994, which was allowed. Against the judgment of the appellate Court, the petitioner and her husband filed second appeal, being S.A.No.1024 of 1998, which is still pending before this Court. Therefore, it is the case of the petitioner that the respondent-Municipality cannot reject the requisition on the ground that she encroached upon the Government poramboke land known as 'Nagulakunta'.

Learned counsel for the petitioner has made submissions, which are similar on the lines referred to hereinabove. Learned Standing Counsel refused the allegations.

A perusal of the impugned endorsement, dated 07-12-1998, would show that the petitioner applied for requisition of unauthorized construction and the same was not considered by the Municipality on the ground that as per the revenue records, the petitioner constructed in the Government land known as 'Nagulakunta' and that the suit, being O.S.No.202 of 1990, is still pending. For this reason, the plan submitted by the petitioner was rejected. The reason given by the Municipality cannot be termed as arbitrary or illegal. Admittedly, the suit is pending at the stage of second

appeal before this Court, and therefore, that itself is sufficient for rejecting the requisition. Secondly, if Public Authority, in this case the Municipality, based on revenue records comes to a conclusion that the land under occupation of the petitioner is a Government poramboke land, this Court cannot, in the absence of any material, decide the title to the land. As and when the Government initiates action for eviction of the petitioner, she can raise all the grounds. At this stage, there is every justification for the respondent to reject the application of the petitioner for regularization of unauthorized construction.

The writ petition is devoid of merits and is accordingly dismissed. No costs.

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(V.V.S.RAO,J)

Dated:14.03.2006

GJ